

METROPOLITAN DEVELOPMENT COMMISSION
DOCKET NO. 97-AO-6

A GENERAL ORDINANCE to amend certain sections of the Code of Indianapolis and Marion County, Appendix D, as amended, the Zoning Ordinance for Marion County, and fixing a time when the same shall take effect.

WHEREAS, IC 36-7-4 establishes the Metropolitan Development Commission (MDC) of Marion County, Indiana as the single planning and zoning authority for Marion County, Indiana, and empowers the MDC to approve and recommend to the City-County Council of the City of Indianapolis and of Marion County, Indiana ordinances for the zoning or districting of all lands with the County for the purposes of securing adequate light, air, convenience of access, and safety from fire, flood and other danger; lessening or avoiding congestion in public ways; promoting the public health, safety, comfort, morals, convenience, and general public welfare; securing the conservation of property values; and securing responsible development and growth; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Central Business District Zoning Ordinance of Marion County, Indiana, Code of Indianapolis and Marion County, Indiana, Appendix D, (adopted under Metropolitan Development Commission docket numbers 64-AO-1, 81-AO-4, 93-AO-1, 94-AO-1, 95-AO-4, and 96-AO-4), as amended, pursuant to IC 36-7-4, be amended as follows:

A. That Section 2.01, A, 17 be amended by deleting the stricken language and inserting the underscored language as follows:

17. Theatres, auditoriums, ~~and amusement facilities~~ or indoor commercial amusement/recreation establishments (no adult entertainment business permitted)

B. That Section 2.01, B, 1 be amended by inserting the underscored language as follows:

- c. Taverns, package liquor stores, night club establishments, and such establishments where alcoholic beverages may be carried out (except drug stores or grocery stores) shall:

- (1) provide adequate outdoor convenience trash containers; and
- (2) erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and,
- (3) not be located within one hundred (100) feet, measured in any direction, of a Protected District. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the Protected District except when such establishment is separated from said Protected District by an intervening street (see Section 2.06, Diagram A); and,
- (4) not be located within five hundred (500) feet, measured in any direction, of any indoor commercial amusement/ recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject indoor commercial amusement/recreation establishment.

- d. Any indoor commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be located within five hundred (500) feet, measured in any direction, of any tavern, package liquor store, night club

establishment, or such establishment where alcoholic beverages may be carried out (except drug stores or grocery stores). The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject tavern, package liquor store, night club, or establishment where alcoholic beverages may be carried out.

e. Trash containers exceeding six (6) cubic feet shall:

- (1) be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any Protected District, nor shall it be viewed from any street frontage; and
- (2) be located behind the established front building line; and
- (3) not be located within a required yard or required transitional yard.

C. That Section 2.02, A, 17 be amended by deleting the stricken language and inserting the underscored language as follows:

17. Theatres, auditoriums, and amusement facilities or indoor commercial amusement/recreation establishments (no adult entertainment business permitted).

D. That Section 2.02, B, 1 be amended by inserting the underscored language as follows:

d. Taverns, package liquor stores, night club establishments, and such establishments where alcoholic beverages may be carried out (except drug stores or grocery stores) shall:

- (1) provide adequate outdoor convenience trash containers; and,
- (2) erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and,
- (3) not be located within one hundred (100) feet, measured in any direction, of a Protected District. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the Protected District except when such establishment is separated from said Protected District by an intervening street (see Section 2.06, Diagram A); and,
- (4) not be located within five hundred (500) feet, measured in any direction, of any indoor commercial amusement/ recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject indoor commercial amusement/recreation establishment.

e. Any indoor commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be located within five hundred (500) feet, measured in any direction, of any tavern, package liquor store, night club establishment, or such establishment where alcoholic beverages may be carried out (except drug stores or grocery stores). The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject tavern, package liquor store, night club, or establishment where alcoholic beverages may be carried out.

f. Trash containers exceeding six (6) cubic feet shall:

- (1) be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any Protected District, nor shall it be viewed from any street frontage; and,
- (2) be located behind the established front building line; and,
- (3) not be located within a required yard or required transitional yard.

E. That Section 2.03, A, 11 be amended by deleting the stricken language and inserting the underscored language as follows:

11. *Retail sales and service establishments* primary for the convenience of residents or employees of this district, provided:

- a. such establishments (except for sales of beverages, flowers and food from carts) shall be located within buildings principally used for office, apartment, hotel or off-street parking uses, and
- b. such establishments shall include any of the following or similar uses of a like nature or character:

bank, savings and loan office
bar*, cabaret*, night club*
barber shop
beauty shop
book store
cleaners and laundry outlet
delicatessen
drug store
florist
gift shop
grocery store

indoor commercial amusement/recreation establishment (no adult entertainment business permitted)**
jewelry store
laundromat
men's and women's wear
newsstand
restaurant
shoe repair shop
stationery store
ticket office

* subject to Section 2.03, B, 1, d.

** subject to Section 2.03, B, 1, e.

F. That Section 2.03, B, 1 be amended by inserting the underscored language as follows:

d. Taverns, package liquor stores, night club establishments, and such establishments where alcoholic beverages may be carried out (except drug stores or grocery stores) shall:

- (1) provide adequate outdoor convenience trash containers; and,
- (2) erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and,
- (3) not be located within one hundred (100) feet, measured in any direction, of a Protected District. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the Protected District except when such establishment is separated from said Protected District by an intervening street (see Section 2.06, Diagram A); and,
- (4) not be located within five hundred (500) feet, measured in any direction, of any indoor commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in

an integrated center), to the property line of the subject indoor commercial amusement/recreation establishment.

e. Any indoor commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be located within five hundred (500) feet, measured in any direction, of any tavern, package liquor store, night club establishment, or such establishment where alcoholic beverages may be carried out (except drug stores or grocery stores). The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject tavern, package liquor store, night club, or establishment where alcoholic beverages may be carried out.

f. Trash containers exceeding six (6) cubic feet shall:

(1) be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any Protected District, nor shall it be viewed from any street frontage; and,

(2) be located behind the established front building line; and,

(3) not be located within a required yard or required transitional yard.

G. That Section 2.06, B be amended by deleting the stricken language and inserting the underscored language as follows:

B. *Definitions.* The following definitions shall be applied for purposes of this ordinance:

1. *Alley.* A public way, the right-of-way of which is less than thirty-five (35) feet in width.

2. *Adult entertainment business.* An adult bookstore, adult motion picture theatre, adult mini motion picture theatre, adult motion picture arcade, adult cabaret, adult drive-in theater, adult live entertainment arcade or adult services establishment (all as defined in the Commercial Zoning Ordinance of Marion County, Indiana, 69-AO-1, as amended).

3. *Amusement arcade.* A type of indoor commercial amusement/recreation establishment where more than four (4) amusement machines are available to the public.

4. *Amusement machine.* An amusement device operated by means of the insertion of a coin, token, or similar object for the purpose of entertainment, amusement or skill and for the playing of which a fee is charged. "Amusement Machine" does not include vending machines which do not incorporate gaming amusement or skill features, nor does the term include any coin-operated mechanical musical device.

25. *Attached multi-family dwellings.* A building or buildings for residential purposes with three or more dwelling units, having common or party wall or walls, on a single lot. Each unit is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common or individual stairwell(s) exterior to any dwelling unit(s).

6. *Commercial amusement/recreation establishment indoor.* A facility wholly enclosed in a building that offers entertainment or games of skill to the general public for a fee. This includes but is not limited to such facilities as bowling alleys, billiard parlors, dance halls, sports facilities or amusement arcades.

37. *Dwelling unit.* One or more rooms connected together in a residential building or residential portion of a building, which are arranged, designed, used and intended for use by one or more human

beings living together as a family and maintaining a common household for owner occupancy or rental or lease on a weekly, monthly, or longer basis; and which includes lawful cooking, eating, sleeping space and sanitary facilities reserved solely for the occupants thereof.

48. *Family.* One or more human beings related by blood, marriage, adoption, or guardianship together with incidental domestic servants and temporary, non-compensating guests; or, not more than four (4) human beings not so related, occupying a dwelling unit and living as a single housekeeping unit.
9. *Grocery store.* A commercial establishment, commonly known as a supermarket or food store, primarily engaged in the retail sale of canned foods and dry goods, such as tea, coffee, spices, sugar, and flour; fresh fruits and vegetables; and fresh and prepared meats, fish and poultry.
10. *Liquor store, package.* A facility principally for the retail sale of alcoholic beverages for off-premise consumption.
611. *Lot.* Any area of land designated as a lot on a platted subdivision or described on a duly recorded deed or parcel of land or site which is occupied, or intended for occupancy by one (1) principal use.
612. *Net floor area.* The sum of the gross horizontal areas of the one or several floors and basements of the building or portions thereof devoted to permitted uses, not including, however: floor areas devoted primarily to storage purposes; floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space; or floor area used for toilets, rostrums, utilities, lounges, elevator shafts, main corridors and stair wells, or cafeterias for the use of employees only. Provided, however, for the purposes of determining off-street loading requirements, net floor area shall include floor area devoted primarily to storage purposes, but shall otherwise be defined as above.
13. *Night club.* An establishment engaged primarily in offering entertainment to the general public, in the form of music for dancing or live or recorded performances. The establishment may or may not engage in the preparation and retail sale of alcoholic beverages for consumption on the premises. For the purposes of this ordinance, an establishment of a similar nature which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be construed to be a night club, but rather an indoor commercial amusement/recreation establishment.
14. *Protected district.* Specific classes of zoning districts which, because of their low intensity or the sensitive land uses permitted by them, require additional buffering and separation when abutted by certain more intense classifications of land use. A protected district shall include any Dwelling District, Hospital District, Parks District, University Quarter District, SU-1 (Church) District or SU-2 (School) District.
715. *Public area.* Land owned or controlled by a governmental unit for public use, including but not limited to sidewalks, plazas and parks.
816. *Signs.* Any structure, fixture, placard, announcement, declaration, device, demonstration or insignia used for direction, information, identification or to advertise or promote any business, product, goods, activity, services or any interests.
917. *Sky exposure plane.* An imaginary sloping surface, consisting of three types, rising over designated lots in the CBD-1 and CBD-2, as specified in Sections 2.01, B, 2 and 2.02, B, 2 for purposes of limiting height of building, signs and other structures.

(1) *Sign exposure plane one.*

- a. On each street in the CBD-1 designated in Section 2.01, B, 2, b (1) (excepting Monument Circle) and in the CBD-2 designated in Section 2.02, B, 2, b (1), the Sky Exposure Plane One shall have a base which is coincident with the centerline of each said street, and

- b. at the base has an elevation equal to the average elevations above mean sea level of the street centerline from the intersection of one street center to the intersection of the next, and
- c. is included at an angle of seventy-eight degrees (78°) measured from the horizontal, and
- d. extends to a vertical elevation of three hundred (300) feet above the base, and
- e. then continues vertically at an angle of ninety degrees (90°) measured from the horizontal, and
- f. extends to a vertical elevation, above the base, equal to infinity.

(2) *Sky exposure plane two.*

- a. On all streets in the CBD-2 (excepting those street specifically designated in Section 2.02, B, 2 (1), the Sky Exposure Plane Two shall have a base which is coincident with the centerline of each said street, and
- b. at the base has an elevation equal to the average elevation above mean sea level of the street centerline from the intersection of one street centerline to the intersection of the next, and
- c. is inclined at an angle of sixty degrees (60°) measured from the horizontal, and
- d. extends to a vertical elevation of two hundred (200) feet above the base, and
- e. then continues vertically at an angle of ninety degrees (90°) measured from the horizontal, and
- f. extends to a vertical elevation, above the base, equal to infinity.

(3) *Sky exposure plane three.*

- a. In the case of all lots abutting Monument Circle, in the CBD-1, as designated in Section 2.01, B, 2, b (1), the Sky Exposure Plane Three shall have a base which is coincident with the centerline of the street, and
- b. at the base has an elevation equal to the average elevation above mean sea level of the street centerline from the intersection of one street centerline to the intersection of the next, and
- c. is inclined at an angle of sixty-seven and one-half degrees (67.5°) measured from the horizontal, and
- d. extend to a vertical elevation of one hundred eight (108) feet above the base, and
- e. then continues at an angle of seventy-four degrees (74°) measured from the horizontal, and
- f. extends to a vertical elevation of one hundred fifty (150) feet above the base, and
- g. then continues horizontally at an angle of zero degrees (0°) measured from the horizontal, and
- h. extends to the alleys known as Wabash, Scioto, Bird and Court Streets.

4018. Street. A public way, the right-of-way of which is at least thirty-five (35) feet in width.

19. Tavern. An establishment used primarily for the serving of liquor by the drink to the general public, but where minors cannot be within the use, and where food or packaged liquors may be served or sold only as accessory to the primary use.

4420. Total adjusted net floor area.

(1) *For determining required off-street loading.*

a. To determine total adjusted net floor area:

1. Total the net floor area devoted to each use within the building.
2. Multiply the total net floor area for each use by the loading floor area factor for such use, as specified in b. below.
3. Add the results of 2. above - this is the total adjusted net floor area.

b. Loading Floor Area Factors:

1. Retail Sales and Services - 2.0.
2. Business, Professional and Consumer Service, Hotels and Motor Hotels - 1.0.
3. Manufacturing and Wholesale (exclusive of office, sales and display area) - 2.5.
4. Residential and Apartment Hotels - 0.5.

(2) *For determining off-street parking.*

a. To determine total adjusted net floor area:

1. Total the net floor area devoted to each use within the building.
2. Multiply the total net floor area for each use by the parking floor area factor for such use, as specified in b. below.
3. Add the results of 2. above - this is the total adjusted net floor area.

b. Parking Floor Area Factors:

1. Retail Sales and Services - 2.0.
2. Residential and Apartment Hotels - 1.0.
3. Manufacturing - 3.0.
4. Hotel and Motor Hotels - 3.0.
5. Business, Professional and Consumer Service, and Wholesale - 1.0.

G. That Section 2.06, B be amended by inserting Diagram A.

SECTION 3. Severability. If any provision of this Ordinance shall be held invalid, its invalidity shall not affect any other provisions of the Ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this Ordinance are hereby declared to severable.

SECTION 4. Attestation. This ordinance shall be in full force and effect upon its adoption with IC 36-7-4.

The foregoing was passed by the City-County Council this 9th day of June, 1997 at 9:55 p.m.

ATTEST:

Burt Lewis

Dr. Beurt SerVaas
President, City-County Council


Suellen Hart, Clerk, City-County Council

STATE OF INDIANA, MARION COUNTY)
) SS:
CITY OF INDIANAPOLIS)

I, Suellen Hart, Clerk of the City-County Council, Indianapolis, Marion County, Indiana, do hereby certify the above and foregoing is a full, true, and complete copy of Proposal No. 209, 1997, a Proposal for GENERAL ORDINANCE, passed by the City-County Council on the 9th day of June, 1997, by a vote of 25 YEAS and 0 NAYS, and was retitled General Ordinance No. 86, 1997, and now remains on file and on record in my office.

WITNESS my hand and the official seal of the City of Indianapolis, Indiana, this 13th day of June, 1997.


Suellen Hart, Clerk, City-County Council

(SEAL)